

HOUSE BILL 2865

By Camper

AN ACT to amend Tennessee Code Annotated, Title 40, Chapter 32, relative to the expunction of certain criminal records.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 40-32-101, is amended by adding the following new subsection:

(g)

(1) For purpose of this subsection (g), “nonviolent” offense means:

(A) The offense does not have as an element the use, attempted use, or threatened use of physical force against the person or property of another,

(B) The offense is not a felony offense that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense;

(C) The offense does not involve the use of a firearm;

(D) The offense is not a sex offense for which the offender is required to register as a sexual offender or violent sexual offender under title 40, chapter 39, part 2; and

(E) The offense did not result in causing a victim or victims to sustain a loss of twenty-five thousand dollars (\$25,000) or more.

(2) Notwithstanding the provisions of this section, effective July 1, 2012, a person is eligible to file a petition for expungement of that person’s public records involving a criminal offense if:

(A) At the time of filing, the person had never been convicted of any criminal offense, including federal offenses and offenses in other states, other than nonviolent offenses committed during a single criminal episode and that includes the offense for which the person petitions for expungement; and

(B) The person has fulfilled all requirements of the sentence of the court in which the individual was convicted of the nonviolent offense, including:

(i) Payment of all fines, restitution, or other assessments;

(ii) Completion of any term of imprisonment;

(iii) Meeting all conditions of supervised or unsupervised release; and

(iv) If so required by the conditions of the sentence, remaining free from dependency on or abuse of alcohol or a controlled substance for a period of not less than one (1) year.

(3) A person seeking expungement shall petition the court in the which the petitioner was convicted of the nonviolent offense for which the petition for expungement is filed. Upon filing of the petition, the clerk shall serve it on the district attorney general for that judicial district. Except as provided in subdivision (g)(7), not later than sixty (60) days after service of the petition, the district attorney may submit recommendations to the court and provide a copy of such recommendations to the petitioner.

(4) Both the petitioner and the district attorney general may file evidence with the court relating to the petition.

(5) In making a decision on the petition, the court shall consider all evidence and weigh the interests of the petitioner against the best interests of justice and public safety.

(6) If the court denies the petition, the petitioner may not file another such petition until at least two (2) years from the date of the denial.

(7) If an eligible petitioner has not had a petition granted after ten (10) years of eligibility, the court shall grant the petition if the petitioner remains eligible.

SECTION 2. This act shall take effect July 1, 2012, the public welfare requiring it.